

**Woodburn Planning Commission  
Meeting Minutes  
July 27, 2023**

**Convened: The Planning Commission** met at 7:00 p.m. both in person and through a public online/virtual session via Microsoft Teams.

**Roll Call:**

Chair	Ellsworth	Present
Vice-Chair	Hernandez-Mejia	Present (late)
Commissioner	Bartel	Present
Commissioner	Berlin	Present
Commissioner	Bravo	Present
Commissioner	Corning	Present
Commissioner	Lassen	Present

**Staff Present:**

Chris Kerr, Community Development Director  
Colin Cortes, Senior Planner  
McKenzie Granum, Assistant City Attorney

**Introduction: Vice-Chair Ellsworth** called the meeting to order at 7:01pm and asked **Staff** to begin roll-call. **Vice-Chair Ellsworth** led everyone through the Pledge of Allegiance.

**Introduction of New Commissioner: Vice-Chair Ellsworth** introduced the **Planning Commission** to their newest member, **Commissioner Juan Bravo**. She asked **Commissioner Juan Bravo** to give a little introduction about himself and he said he’s a Woodburn native. He went to Woodburn High School and graduated from the University of Oregon in 2009. After college, he started his Farmers Insurance Agency business and has been operating for 14 years with two locations, one each in Woodburn and Beaverton. He’s excited to be here and part of this **Planning Commission**.

**Chair and Vice-Chair Elections: Vice-Chair Ellsworth** moved on into the **Chair and Vice-Chair Elections**, as former long-time **Chair Piper** retired from his position. **Vice-Chair Ellsworth** entertained nominations for any **Planning Commissioner** who wants to be **Chair** or **Vice-Chair**. **Commissioner Corning** nominated **Vice-Chair Ellsworth** for **Chair** and **Commissioner Berlin** seconded. **Vice-Chair Ellsworth** asked if anyone else has a nomination and there were none. **Vice-Chair Ellsworth** asked for a vote, and it was unanimously decided that **Vice-Chair Ellsworth** is now **Chair Ellsworth** for the **Planning Commission**.

**Chair Ellsworth** asked for nominations for **Vice-Chair** for the **Planning Commission**. **Commissioner Berlin** nominated **Commissioner Hernandez-Mejia** to be **Vice-Chair** and **Commissioner Corning** seconded. **Vice-Chair Ellsworth** asked if anyone else has a nomination and there were none. **Vice-Chair Ellsworth** asked for a vote, and it was unanimously decided that **Commissioner Hernandez-Mejia** is now **Vice-Chair Hernandez-Mejia** for the **Planning Commission**.

**Minutes: Chair Ellsworth** moved onto the **Planning Commission** minutes from June 8, 2023. She asked if there were any corrections or additions and there were none. **Chair Ellsworth** entertained a motion to approve of the minutes and **Commissioner Corning** seconded. **Chair Ellsworth** asked for a vote, and it was unanimously decided to approve the **Planning Commission** minutes from June 8, 2023.

**Business from the Audience: Chair Ellsworth** asked if there was any business from the audience that evening that is not on the agenda. There were none.

**Communications:** **Chair Ellsworth** asked if there were any communications and **Community Development Director Chris Kerr** said there were none.

**Public Hearings:**

*DR 22-26 & VAR 22-15*

**Chair Ellsworth** stated that there is one quasi-judicial land-use hearing for this evening. She opened the public hearing for **DR 22-26 & VAR 22-15: Chick-fil-A located at 300 S. Woodland Ave.** **Chair Ellsworth** gave a brief description of the land -use item that was written on the **Planning Commission** agenda.

**Chair Ellsworth** then asked if the **Planning Commission** had any ex-parte contacts, site visits, declarations, or potential conflicts of interests. **Chair Ellsworth** then asked the **Commission** if there were any to report, and **Commissioner Bartel** stated that she doesn't know about the development, she does have a good friend who works at the **Chick-fil-A** in Kaiser, OR. **Chair Ellsworth** asked **Commissioner Bartel** if that would create a bias that would affect her in making an impartial decision and **Commissioner Bartel** said no. **Chair Ellsworth** asked if there were any more to declare and there were none. **Chair Ellsworth** asked if there were any challenges to the **Planning Commission** this evening and there were none.

**Chair Ellsworth** asked **Assistant City Attorney McKenzie Granum** to read the public hearing statement. **Assistant City Attorney Granum** read the statement.

After the public hearing statement, **Chair Ellsworth** asked for the staff report. **Senior Planner Colin Cortes** will be presenting the staff report for the hearing tonight. **Senior Planner Cortes** started the presentation of the public hearing for **DR 22-26 & VAR 22-15: Chick-fil-A located at 300 S. Woodland Ave.** He stated that they are Land-Use Type III, which the **Planning Commission** gets to decide upon on. **Senior Planner Colin Cortes** stated that he entered the staff report and its attachments to the record. He began his presentation.

*During **Senior Planner Cortes's** presentation, **Vice-Chair Hernandez-Mejia** joined the meeting in-person.*

After the presentation, **Senior Planner Cortes** asked the **Planning Commission** if there were any questions for him. **Commissioner Berlin** expressed her concern about the traffic being like the In-N-Out and the Chick-fil-A located in Kaiser, OR. That there would be an overflow of traffic and would impact the street. **Senior Planner Cortes** stated that the conditions anticipate that concern, and the applicant can provide the specific details for that concern. **Chair Ellsworth** asked for explanation of the recommendations for the opening period that **Senior Planner Cortes** mentioned. **Senior Planner Cortes** indicated to look at staff report page 21 under the blue bar. He stated that there are four conditions and the first one is that the developer would have discussions with the Oregon Department of Transportation (ODOT), as the highway is not only under ODOT jurisdiction, but ODOT also controls the segment of Woodland and Hillyer Lane as well. The applicant would also need to discuss with both Woodburn Police and Public Works Departments how they will manage traffic before they open. This is the first condition.

Before **Senior Planner Cortes** could continue, **Director Kerr** wanted to clarify that the information about the conditions is on page 16 of 21 in the staff report. **Senior Planner Cortes** also brought up the slide that had the information on it as well. He moved onto explaining the second condition, stating that it's more specified. The second condition is limiting the hours of operation for approximately the first two weeks of the Chick-fil-A's open and requiring the employees to park off sight. While it's not specified, in theory the employees could park at the transit center on Evergreen and the highway. **Senior Planner Cortes** stated that it's a recommended proposal and the **Planning Commission** is free to change or discuss. **Commissioner Corning** asked if that was common, referring to the conditions mentioned so far. **Senior Planner Cortes** stated that they are getting at that point to have the applicant be introduced, as they have a presentation and can be the ones to answer specific questions.

**Director Kerr** wanted to point out that the applicant had their traffic engineer provide more detailed information that came in on July 25 [2 days before the hearing] about possible traffic management issues with this opening. It will have a little bit more detailed information than **Staff** had, and **Staff** believed the applicant have some of the best ideas to handle those traffic concerns.

**Chair Ellsworth** wanted to let everyone know that she asks questions that she technically knows the answer to but does this to help educate the public about what work is being done by the applicant. She asked if anyone had other questions for **Senior Planner Cortes** and there were none. **Chair Ellsworth** moved onto testimony by applicant.

**Testimony by Applicant: Andrew Hunt, representative of the applicant, and works for 4G Development & Consulting, PO Box 270571 San Diego, CA 92198.** **Applicant Hunt** thanked the introduction and **Senior Planner Cortes** for his explanation of the project. **Applicant Hunt** introduced the members of the Chick-fil-A team and began his presentation. He showed a site plan and the layouts of the Chick-fil-A building and explained the landscaping around it. He talked about the traffic and how it will look from getting in and out of the drive-thru and how traffic will be mitigated. After his presentation, he asked if there were any specific questions about the site plan or proposal.

**Commissioner Corning** asked if there was an awning over the tables outside. **Applicant Hunt** stated that the tables would have their own umbrellas. **Commissioner Berlin** commented that Chick-fil-A would have many vehicles moving in and out of the drive-thru, including four outdoor tables with umbrellas. She referenced the Chick-fil-A in Kaiser, OR that she visited and how nice the indoor seating was and in agreeing with **Commissioner Corning**, who stated that the umbrellas may not be that handy for outside diners. **Applicant Hunt** brought up the site map and addressed the canopy in addition to the umbrellas. He explained the canopy's purpose as a protection from weather for people ordering and used the site map to indicate where it will be. **Commissioner Bravo** asked if they had other locations in Oregon like what is being proposed and **Applicant Hunt** said their drive-thru only in Oregon. **Commissioner Bravo** asked **Applicant Hunt** if he anticipates people from the drive-thru to park and eat or is it just people who are getting out of their cars to order, and if there was any data on that scenario. **Mr. Steve Schwartz**, who's with Chick-fil-A, answered **Commissioner Bravo's** question, stating that he doesn't have data of people doing that, but most people go through the drive-thru and take their food to eat elsewhere. It's not really meant to be a large dine-in facility. **Assistant City Attorney Granum** asked **Chair Ellsworth** if she could say a recommendation to the audience, who are part of the **Chick-fil-A** team and who want to speak, should come to microphone. The reason is to make sure everything that is said gets on the record and for the audience online can hear what is being said.

**Vice-Chair Hernandez-Mejia** commented she shared the same curiosity as Commissioner Bravo about data of what customers use as a place for eating. She believed that because of the site map showing a lot of parking for just four tables being there. **Vice-Chair Hernandez-Mejia** stated that she does understand it being next to I-5 and most of the intention of it being drive-thru, but it still seems very unbalanced with the amount of a lot parking and the number of only a few tables available. **Steve Schwartz, Principal Development Lead, Chick-fil-A, Inc, 105 Progress, Suite 100, Irvine, CA 92618** answered **Vice-Chair Hernandez-Mejia** question. **Mr. Schwartz** stated that the intent of this store is not to have dine-in guests arrive, so the number of parking is set up for team member parking and for people who do third-party pickup, like DoorDash or Grubhub. **Commissioner Corning** asked what **Mr. Schwartz** meant by team members and he clarified that they are the employees whom they refer to as team members. He goes into more term definitions like franchisees are called operators. **Mr. Schwartz** commented that they followed the development code for parking stalls needed. **Chair Ellsworth** commented that the team members would benefit the most from those parking spaces. **Mr. Schwartz** said correctly.

**Commissioner Berlin** commented on the concerns of traffic and that it'll be too much for that area to handle. **Applicant Hunt** stated that it's natural to hear that main concern for traffic and that his team focused on different elements like how they can fit the cars in there, the stacking, etc. He explained more about the traffic and used the site map of how cars will go in and out of the site. **Applicant Hunt** stated that he would like to address the conditions of approval with the **Planning Commission** sometime tonight. But first, he wanted to explain how his team managed the traffic for the Salem, OR Chick-fil-A and how they were given

different options of how to tackle traffic. **Applicant Hunt** also mentioned that the employees would be out there to take orders and mitigate traffic to the drive-thru window, as that is how a Chick-fil-A conducts its business. As for the worries for the time of the grand opening, **Applicant Hunt** ensures that they are working with law enforcement and the Planning Director to make the grand opening run smoothly. He stated that there isn't any anticipated impact in Woodburn, and he drew comparisons to the Salem, OR Chick-fil-A, who've after a month of operation, had no problems with traffic.

**Commissioner Corning** asked about the drive lanes and wanted to clarify that they would hold 24 cars in each. **Applicant Hunt** stated yes, as this is from the window to all the way to the entrance. **Commissioner Corning** followed up by asking him what the restaurant experiences a backup of too many cars. **Mr. Schwartz** stated that its site is specific, but most of the stores and their queues are in the 35ish-40 range, and with these queues having that range of 45-50 cars is more than typical. **Commissioner Corning** asked about the high-traffic time, would the cars go out that driveway and back down go on South Hillyer Lane and **Applicant Hunt** stated yes. He then further explained that if there were high traffic periods, they would queue all the way back for those 54 cars. **Applicant Hunt** pointed out the entrance in the middle of the site, therefore there would be cars in the parking lot, with someone standing there to direct traffic. So, they would be able to stack cars in both directions and queue traffic though the site, so it won't spill out to ODOT right-of-way. **Applicant Hunt** again stated that this would be used for very high traffic circumstances but according to the traffic study, it doesn't anticipate anywhere near the 54 cars being queued.

**Commissioner Berlin** asked how long it takes to fill an order, as that would cause traffic to back up and create the queue. **Mr. Schwartz** stated that was a great question and his team spent a lot of time at the office figuring out the best way operationally to manage the flow. A few things he wanted to point out: the first of them being that the kitchen that they use is a high-capacity kitchen meant to produce food very quickly and efficiently. They deliver food to both lanes at the same time outside that drive through area. **Mr. Schwartz** commented that they are allowing more than one car to order and get their food, as this is not a typical one car at a window and causes a holdup. He stated that the two lane grants them more flexibility to move additional cars through. **Mr. Schwartz** used the site map to indicate where the taking orders starts and pointed out that they have team members outside with iPads taking orders. **Mr. Schwartz** mentioned Chick-fil-A's mobile app, which customers can order and pay ahead and all they must do is pick-up the meal. As for handling payment of food, that is taken care of with either the mobile app or when the customers are placing their orders with team members, who have iPads, and the line keeps moving and the customers pick up their food at the window.

**Vice-Chair Hernandez-Mejia** asked if they would have a window for food and one for payment. Her other question is how they would handle cash payments from customers. **Mr. Schwartz** clarified that they don't have two windows for payment and food, as it's only one window. The window is more of a door to make it more customer friendly, and the team members bring out the food to the customers. As for cash payment, **Mr. Schwartz** commented that most of the customers pay with credit card, but the order takers who are outside with the iPads are equipped to take cash as well. **Vice-Chair Hernandez-Mejia** commented that it's good that they do take cash, as some customers may not use credit cards and can only pay in cash; with these multiple forms of payment available, the line won't stall or cause queue problems.

**Applicant Hunt** wanted to go over the conditions of approval. He said that his team and **City Staff** have worked together to understand and make sure the conditions of approval work with how Chick-fil-A operates. He wants to look at Condition T-A2 Part (a) on page 16, as it relates to limited hours on a business. He questioned on why **Staff** would do this, and it seems to be a traffic concerns and possibly due to peak hour issues. **Applicant Hunt** wanted to acknowledge that there's a lot of mitigations here and he wanted to reference comparable data, which would be using the Salem store that just opened, as that's located in a district that was expected to be in a higher volume of traffic than Woodburn. **Applicant Hunt** explained that they see the hours of operations for proposed for a minimum of 12 days and he believed that it would be difficult to operate within the conditioned hours of operation of 9:30 a.m. - 4:30 p.m. He stated that with the data they presented, they believe it's fair to say that they mitigated a lot of those concerns and talking to the applicant beforehand, they said they understand the concerns and they want to offer something to help, in addition to what they believe that they already presented as evidence.

**Applicant Hunt** listed off a few things that the applicant wanted the **Planning Commission** to know, which were they will be willing to close the entire third-party platform for those maximum 12 days. That would mean if there were concerns with Doordash, Grubhub, etc. coming in and leaving the site and affecting the circulation that were proposed during the initial opening period. **Applicant Hunt** understands the concern from **Staff** and the applicant is willing to give that up for the first 12 days maximum. **Applicant Hunt** followed up with stating that applicant wanted to propose that they would like to maintain normal business hours. **Commissioner Corning** commented that what the applicant is asking them is to have an alternative to Condition T-A2 part (a) and **Applicant Hunt** said correct. Another thing that the applicant was willing to do is slightly reduce their evening hours to accommodate this request from **Staff**, to mitigate concerns. Therefore, they would like to formally request the store to be open on Saturdays and **Applicant Hunt** mentioned that all Chick-fil-A's are closed on Sundays. The operation will be on Saturdays and weekdays from 6:30 a.m. – 10 p.m. Right now, the condition reads 9:30 a.m. - 4:30 p.m. so they would bring the Saturday hours, which are 6:30 a.m. - 11:30 p.m., but they will only operate 'til 10 p.m. as well as removing that third-party delivery channel. **Applicant Hunt** raised the concern of conditioned limits on employee parking; he wanted to point out if parking is a concern and if third-party delivery system might fill up too many parking stalls. He stated that it was recommended by **Staff** to not allow employees to park on site unless they carpool together or have a disabled pass. **Applicant Hunt** believed that it would extremely limit and hinder the employee's functionality, the operating team, the team trying to train new staff and their ability to try to get there on time and work efficiently. **Applicant Hunt** restated that the applicant is willing to remove that third-party delivery for the first 12 days and limit their nighttime hours to 10 p.m., therefore it would be from 6:30 a.m. – 10:00 p.m. for those first 12 days.

**Chair Ellsworth** asked if they serve breakfast and **Mr. Schwartz** said yes. **Vice-Chair Hernandez Mejia** asked what their usual closing time. **Mr. Schwartz** answered by saying most of the stores are open 'til 10 p.m., but there are a few who are open 'til 11 p.m. or midnight but that depends on the location, but Oregon doesn't have any that are open that late. **Vice-Chair Hernandez Mejia** asked what the long-term plan for this Woodburn site would be and **Mr. Schwartz** stated it would be from 6:30 a.m. – 10 p.m. **Commissioner Berlin** asked how many team members would the anticipate having at this location. **Mr. Schwartz** stated that during peak hours and at a store like this one would be around 30 team member range. Breakfast time is a little bit slower and then it gradually ramps up, also with the overlap 30-minute period of shift change. **Mr. Schwartz** stated that overall, the operators hire around 100 to 130 team members total, therefore it provides a strong opportunity for hiring as well for the community. **Commissioner Berlin** commented that it would require a lot of parking.

**Applicant Hunt** wanted to provide some context, as they are talking about parking spaces, he brings up Condition T-A2 part (c) which mentions not allowing team members to park onsite with the special conditions, which is one of the reasons for the variance from maximum parking [VAR 22-15]. They believe that although the maximum is 22 stalls, 43 is a lot more reasonable and that they consider that there are 11 striped stalls for cars to park along Hillyer, that creates 54 parking areas. **Applicant Hunt** reminded everyone the store will be drive-thru only and that much of the parking is for employees and the remaining 20 stalls would be for food delivery services. He said that all 20 stalls won't be in use since the delivery service is known for picking up and go, and the stalls are there to keep things moving.

**Commissioner Corning** asked them to tie down their Condition T-A2a hours of operation with what the condition should be read as instead of temporary hours of operation. **Senior Planner Cortes** stated that it's an option the **Commission** could choose to specify the hours to the applicant's liking or to eliminate restrictions of the hours of operation altogether. **Chair Ellsworth** reminded everyone that this section of conditions is only for the first 12 days of operation. **Senior Planner Cortes** answered yes. **Commissioner Berlin** asked if they are expected to be slammed during those 12 days. **Applicant Hunt** believed that they won't be extremely slammed. **Applicant Hunt** wanted to specify those conditions as they mentioned that those conditions carry a lot of risk and weight for the applicant, as depending on the discretion or whose discretion, they could be several years into the project. **Senior Planner Cortes** direct **Planning Commission** attention to the screen where he displayed Condition T-A4 and gave a description of the condition about Director discretion. **Applicant Hunt** pointed out that it's again a huge risk for the applicant and that the condition is vague and open to interpretation, therefore making it harder for the applicant to understand how they can move forward. **Applicant Hunt** stated that it would be the applicant's request to

take T-A2 hours and modify them to be 6:30 a.m. – 10 p.m. with the idea or concept of shutting off third-party delivery service. **Commissioner Corning** asked if **Applicant Hurt** was referring to paragraph (b). He said no and the condition he was referring to was about delivery vehicles not being allowed to deliver during Chick-fil-A business hours, which he stated as a conflict. **Applicant Hurt** stated that Chick-fil-A really wants to work with **Staff** and with the **Commission**, as they are trying to figure out how to make this business successful. He thinks that Chick-fil-A could figure out a way to not argue every condition that is listed because they can see the benefit they can have for this community. **Commissioner Bartel** stated that T-A2a should be restated because it mentions Sundays, and Chick-fil-A's aren't open on Sundays.

**Vice-Chair Hernandez-Mejia** asked about their Kaiser and Salem locations, wondering of how those initial first two weeks been like over there. **Mr. Schwartz** stated that Salem opened late June 2023 for a month now and it's been received well by the community. **Mr. Schwartz** communicated with the operator at that location who said that traffic management has been working great in the queue. He also mentions the fact that there's other businesses there in that location like Costco and the work relationship between the businesses is good and they haven't been stacking out or creating challenges for other local businesses. **Mr. Schwartz** expressed the goal for Chick-fil-A is to be a good neighbor and being an active part of the community. **Mr. Schwartz** then talked about the Kaiser location, which has been open for much longer, and hasn't heard many problems from that location either. While it's a busy store as well, they do their best to design a store in such a way they can handle traffic. **Vice-Chair Hernandez-Mejia** then asked about third-party deliveries and the number of orders they receive for said third-party delivery services, whether it's high volume or a normal flow. **Mr. Schwartz** stated that he doesn't have the exact numbers for third-party delivery service, but he surmises that since Kaiser has been open longer than Salem has been, that there's probably been a higher adoption use of that as a delivery option. **Mr. Schwartz** restated that they are willing to not turn on that delivery function right away, in accordance with the 12-day operation limit, and help avoid any concerns of extra cars coming to the site. **Vice-Chair Hernandez-Mejia** stated the reason why she asked that question was to see whether there was a demand or not for third-party delivery services and if there wasn't a demand, it wouldn't really cause a big impact to traffic in the queue. **Mr. Schwartz** stated that he doesn't have the numbers to verify if third-party delivery services are affecting certain stores.

**Applicant Hunt** wanted to add some context, since they all have been discussing the Kaiser and Salem stores, they reached out to those stores and got personal feedback from both Planning Directors from Kaiser and Salem. They both have provided feedback of the two Chick-fil-A locations and those comments had been passed to the **Planning Commission**. **Applicant Hunt** summarized that the feedback was positive and liked how they partnered with the cities for their openings. While its great that the openings went well, it's also reassuring that these city officials also gave positive feedback and provided their contact information if the **Planning Commission** wanted to check in. **Commissioner Corning** asked if all that was true, is the applicant comfortable with the **Planning Commission** adopting Condition T-A4, which gives them the chance to modify conditions if things are going well after a day or two. **Applicant Hunt** stated that the applicant bears risk and is nervous about that proposal and doesn't feel comfortable accepting that, because it leaves that to interpretation about what significant means and what risk means. **Applicant Hunt** thinks it would be much safer for Chick-fil-A to employ their standards and their practices, work with law enforcement, create a detail traffic management that states all their plans. **Applicant Hunt** said they are happy to write it down how they will monitor the queue and where to stack the vehicles and work with **City Staff** and private traffic companies; it would be something great and a proactive approach to address that concern and rather not limits the business' ability and hinder the business success. **Vice-Chair Hernandez-Mejia** suggested that instead of it reading "significant" [unclear what was meant; word didn't appear in the condition], the **Planning Commission** put numbers to it. For example, after 3 days of operating and if the parking lot isn't full, then allow employees to be able to park on-site on the 4 day and gradually allow more to park on-site as the days pass by. **Applicant Hunt** doesn't think that limiting parking in any way won't be beneficial given the employees that would be there enclosing those sale channels.

**Chair Ellsworth** intervened and stated that they are getting dangerously close to deliberating and that the **Planning Commission** needs to regroup and focus on asking questions or asking the applicant to move on to the next part which is the variance. **Applicant Hunt** stated that they don't have too many questions or comments on the variance. However, they do have a couple of comments about the conditions, and they would like some clarification or confirmation on. **Applicant Hunt** stated that one of these conditions is

Condition D9, as it relates to wheel stops and it's on page 14. The condition stated that wheel stops are required to conform with WDO 3.05.02H and Table 3.05 B footnote 3 and talking with the **Planning Staff**, **Applicant Hunt** stated that the focus is on WDO 3.05.02H, which he read to the **Planning Commission**. He stated that Chick-fil-A will be happy to oblige, and the applicant proposed to put in that concrete bumper guard and he showed a picture to confirm with the **Planning Commission** and **Staff** that it meets with the WDO standards, as this is what they use at their other location. **Commissioner Corning** clarified the applicant's question about their concrete bumper and that it wouldn't qualify as a wheel stop, and it's called something else. **Applicant Hunt** stated that's correct and hence the reason why they are asking for feedback from the commission to see if what they are proposing is allowed, which is a concrete bumper guard. **Senior Planner Cortes** explained that the code doesn't anticipate bollards, but bollards would meet the intent, so **Staff** would be happy to find a way to work bollards into the condition and allow the proposal the applicant has made. **Chair Ellsworth** asked if the **Planning Commission** had any concerns over bollards and there were none. **Chair Ellsworth** stated that **Staff** can move forward and make the conditions reflect what the applicant proposed.

**Applicant Hunt** moved on to the next item that they wanted to discuss that evening, Condition D1b(2) about Woodland Avenue east parking lane. **Applicant Hunt** wanted to have some clarification on the subject. He presented an email from ODOT, specifically from Region 2 development review coordinator **Casey Knecht**, and **Applicant Hunt** read the email. **Applicant Hunt** wanted to confirm with the **Planning Commission** that the agency would not like striping on Woodland Ave, because it would be a safety concern and that the fees-in-lieu would be applicable, which would be 5 stalls minimum and that would equate about \$20,000. **Senior Planner Cortes** summarized the condition as basically saying that the city's plan for Woodland to incorporate parking lanes, but the condition said because it's under ODOT authority and there maybe civil engineering concerns from that agency that limit or perhaps preclude parking lane. The conditions are basically said to comply with the **City** standards, but if ODOT directs differently than defiantly do that and that may result in no parking lane or some of a parking lane. **Commissioner Berlin** asked if the ultimate decision would be ODOT and **Senior Planner Cortes** said yes, and any work done in an ODOT right-of-way would require a permitting approval from that agency. **Applicant Hunt** wanted to confirm that Woodland is not owned by ODOT and ultimately, it's the **City's** decision, therefore they want on the record to make sure that the **City** would understand from the applicant's perspective, on whether or not the **City** would not like striping, as it would be a safety hazard. **Senior Planner Cortes** stated that if it was, his understanding from the **City Public Works Department** is that it's under ODOT jurisdiction. Yet if for some reason if it were under **City** jurisdiction, the parking lane would meet whatever the public works construction standards are. **Applicant Hunt** stated that they want a clarification from the **Planning Commission** if they support no striping on South Woodland Ave and pay the fee-in-lieu of \$20,000 dollars. **Senior Planner Cortes** wanted to clarify to **Applicant Hunt** that the striping and the other components are technical civil engineering specifications that ODOT or the **City** would review as part of designing any improvements along Woodland Ave. It's just not something that is not in the scope of the land-use review and that the ideal cross-section for Woodland Ave is a conceptual drawing, not a construction drawing.

**Applicant Hunt** explained the cross-section that was being referred to is the certain distance about 40 feet through South Woodland Ave. He stated that the applicant meets the condition of the certain distance of sidewalks landscaping and parking lanes. What they want to clarify and put on record is that the **City** would not like striping, even though there is space for it and that they do meet the cross-section, that the striping would not be desired and not be wanted by the **Planning Commission**. **Chair Ellsworth** asked **Senior Planner Cortes** on when they deliberate and look through these conditions and if there were a condition such as this one and they weren't sure of, could they include something in the motion to something in the effect of the fee-in-lieu is acceptable if under review by the **City of Woodburn** or ODOT, and whoever owns the right-of-way in question, may decide if it's applicable or not. The reason why she wants that is because this issue is beyond the scope of the **Planning Commission**. **Senior Planner Cortes** agreed with her, as the outcome could be that there is no physical change and it could result in a parking lane, but at this time it is not yet known. He said that it's because they aren't at this stage yet, so the condition is intentionally worded to say something to the effect of applicant-do-your-best-to-conform-with-this-ideal-drawing. **Senior Planner Cortes** stated that the applicant would still need to go through civil engineers and consult the professionals, come up with drawings and if it results in no parking, then just pay the fee in-lieu. **Applicant Hunt** wanted to clarify the section that tells the applicant that if they can't stripe, then they would need to

dedicate more of their property. **Applicant Hunt** stated that they have been working with both the **City** and **ODOT**, where **ODOT** said to not stripe and **Woodburn** saying that they did meet the cross-sections, leading into a grey area where they would like to have a final clarification and the applicant is proposing to remove the dedicate to more property condition, no matter if they pay a fee in-lieu or go with striping.

**Applicant Hunt** stated that he has two final conditions that they would like some clarification on. One was on an employee count and there was a condition that they weren't expecting, therefore they wanted to get clarification from either the **Planning Staff** or the **Planning Commission**. It's Condition V11 on page 20 about employee worker count, which noted that Chick-fil-A would have a 18-20 employees per shift per the applicant. **Applicant Hunt** read the rest of the statement and added that the applicant clarified that Chick-fil-A could have up to 30-32 employees at the location. He notes that the applicant would need to provide the number of employees and shift times, prior to building permit issuance. They aren't sure why this was added, and their concern is more towards the fact of potential limitation of workers. **Senior Planner Cortes** clarified that there is no limitation or specific action intended, but rather to document the actual intended uses of parking, because the purpose of the variance [VAR 22-15] is to exceed maximum parking. The reason for this is that the applicant gave a couple days ago a specific range of number of employees and that was added among the application materials and **Staff** would be interested to see how that plays out and it doesn't interfere with the variance if it was approved by the **Planning Commission**. **Mr. Schwartz** expressed that he doesn't understand the context of this request, as he's never seen it before, and what they could do is have the operator provide that data once an operator is assigned to the restaurant.

**Allison Reynolds, a land-use attorney for the applicant, from Stoel Rives LLP at 760 SW 9th Ave Portland, OR 97205.** **Ms. Reynolds** stated when they are adopting conditions of approval, they need to be tied into the application material criteria. She commented that what the applicant wants clarified is the parking is meeting the intent of why they are granting the variance and they are having trouble understanding the language of this condition. She said that it's also hard to understand if they are meeting it or not and they are having a hard time determining if this is needed. **Senior Planner Cortes** stated that he agreed to what she was saying, and **Staff** is open to make the wording more understandable for the applicant. **Commissioner Bartel** asked if this was true about the first 12-days are going to be outliers, as they are probably going to have more people, getting used to how things work, getting people trained; therefore, are the first 12-days really a good indicator of what parking is eventually going to be needed and they will probably need more in those couple of weeks. **Mr. Schwartz** said yes and that her statement was accurate, as they will have additional trainers and people helping to get the teams staffed up and extra help in the kitchen, to keep up with the demand. **Chair Ellsworth** asked if there was anything else that the applicant wanted to discuss. **Applicant Hunt** wanted one last clarification of condition D4, which is about a bus shelter and enhanced bus stop, to conform with WDO 3.01.09B. He explained that what they want to do with this one is to understand where it comes from and they were looking and various sources, including the anticipated quota of an enhanced bus stop, which it appeared to exceed this year per his understanding of the City Transit Development Plan. **Applicant Hunt** stated that the applicant is unsure how this \$15,000-dollar enhanced bus stop fee applies, and he asked team member Mariah Mithcell to explain.

**Mariah Mitchell, a planner with DOWL Engineering, 7400 NE 41st Vancouver, WA 98662.** **Ms. Mitchell** stated that the clarification they are looking for regarding this item was regarding the **City's Transportation System Plan (TSP)**. [She actually meant the Transit Development Plan.] She pointed out a recently adopted map from June and that it notes the **City** long-range goals for improving public transit. A few of these goals are a new bus line and then some new bus stops that adjacent the site. **Ms. Mitchell** explained that the applicant's primary concern with those maps that were provided by the **City** is that they note two bus stops immediately adjacent to the site and they are noted as basic bus stops. [She meant staff report Attachment 106A that is TDP p. 80 Fig. 63 specifically.] She explained that they are an orange circle with no dash parameter to indicate that they are enhanced bus stops. **Ms. Mitchell** stated that when reviewing the documents that were provided by the **City**, the applicant was unable to connect the dots about how those bus stops in particular would be subject to the enhanced bus stop or shelter fee-in-lieu. **Applicant Hunt** stated that the difference is \$15,000 to \$25,000. **Ms. Mitchell** stated that the takeaway from this is that the applicant understands that the **City** is placing an emphasis on being a sustainable community and an increased emphasis on multi-module transportation. On that note, **Ms. Mitchell** stated that the applicant is interested in the \$2,500 dollar fee for a fee-in-lieu for an improved "basic" bus stop versus the **City's**

request of a \$15,000 dollar fee-in-lieu for an enhanced bus shelter [based on Attachment 106B that is Fig. 68]. **Chair Ellsworth** turned **Ms. Mitchell** question over to **Senior Planner Cortes** to answer. **Director Kerr** commented on the **Planning Commission** should let the applicant finish the presentation and allow any audience member to testify and the current discussion can be handled in the deliberation. **Chair Ellsworth** noted the concerns of the applicant, and they will be addressed in the deliberation. She asked if there was anything else that they wanted to present. The applicant had none, and **Commissioner Bartel** stated that there was a question online in the chat from **Ms. Jessica Bravo** and **Chair Ellsworth** stated that her question can be read during the testimony phase of the public hearing. **Chair Ellsworth** thanked **Commissioner Bartel** for monitoring the chat on behalf of the **Planning Commission**.

**Mr. Christopher Brehmer of Kittelson & Associates, 851 6<sup>th</sup> Ave. Suite # 600 Portland, OR 97204.** **Mr. Brehmer** stated that the **Planning Commission** asked good questions about traffic, as this is regarding a high-profile restaurant opening and they've seen other restaurants who experience traffic-related problems during grand openings. He explained that he was the traffic engineer for the first Chick-fil-A that opened in the state of Oregon in Hillsboro. They used the [ITE] national average rates for fast-food restaurants for the traffic study and realized that the restaurant was extremely busy, more than they expected. Since then, **Kittelson & Associates** and **ODOT** have been using actual Chick-fil-A data collected from Oregon locations to make better determination on traffic and what times the businesses receive the most and least customers. **Mr. Brehmer** stated that they took the data from the top 3 sites with the most vehicle trips by customers and used that to project what could happen at the Woodburn site. **Mr. Brehmer** is confident that the data they used from the top 3 Oregon branches will help provide accurate traffic studies. **Mr. Brehmer** moved onto the question regarding queuing, how bad is the drive-thru, and what they can expect on opening day. He stated that the morning is the slowest time of the day for customers. **Mr. Brehmer** stated that they went out and looked at actual queues to see how busy they got over the weekday and weekend for all three mealtimes at the Hillsboro, Beaverton, and Kaiser locations. He stated that the one that was the busiest location was the Tanasbourne location in Hillsboro, where breakfast had 8 vehicles, the lunch queue received 24 vehicles. **Mr. Brehmer** stated that the longest dinner queue was the location in Kaiser, and there were at 34 vehicles in the drive-thru while Saturday was at 31 vehicles. **Mr. Brehmer** said that these queue lines are after the opening and it's essentially their established business queues. He expects the queues to be a little bit longer on opening day, but it'll go to numbers the max vehicles in the queue that he brought up earlier. **Mr. Brehmer** stated that the 54-queue length is the longest in the state and while he thinks it's overkill, they got the site and area down and they want to get this right. Therefore, they maximized that queue area. **Mr. Brehmer** recommended that the transportation management plan be put in place for the site, as its in the traffic study and they believe it's appropriate and Chick-fil-A is committed to making it work. **Mr. Brehmer** expressed the importance of getting it right, as if it doesn't go correctly, then Chick-fil-A will have a harder time proving themselves in future communities. **Mr. Brehmer** stated that the **Staff** recommended an appropriate condition that the applicant work with the agencies like **ODOT** and **City Police** to come up with a plan that's appropriate.

**Mr. Brehmer** strongly encouraged the **Planning Commission** not to not restrict restaurant hours of operation. He stated that they don't have that restriction anywhere else in the state's other branches and that it would do a disservice to the community. His concern is that some people might want or rely on Chick-fil-A as a breakfast meal on their way commuting to work and if there are time restrictions in place, it would hinder customers' schedules. **Mr. Brehmer** stated that they worked with **ODOT** about traffic at the other locations and he's confident that Woodburn won't have a problem with traffic. He felt that things would get worse if the **Planning Commission** adopted a time-of-day restriction and as a professional he recommends that they don't enact a time-of-day restriction. **Mr. Brehmer** can answer any questions the **Planning Commission** might have for him. **Commissioner Corning** asked if they have any stores in a location like Woodburn. **Mr. Brehmer** stated that Tanasbourne location in Hillsboro is the closest in similarity to Woodburn. While it's not the same as Woodburn, they have worked with **City Staff** and **ODOT** on the traffic study and did various scenarios of how traffic would look like with different factors involved and **Mr. Brehmer** is confident that they won't run into issues. **Commissioner Corning** asked if the drive-thru for the proposed Chick-fil-A was the longest in the state and **Mr. Brehmer** stated that the proposed drive-thru queue is 54 vehicles is the longest. He added that some of the original Chick-fil-A's only had one drive-up window. So, this model of having both lanes go all the way through is something unique and innovative that's serving them well. **Commissioner Berlin** asked if the Woodburn location is the only one that doesn't

have dine-in area, and **Mr. Brehmer** said correct. **Mr. Brehmer** stated that it's a double-edged sword, because while they don't have people sitting and eating inside, they end up having more potential of vehicles in the drive-thru. **Mr. Brehmer** quickly mentioned employee parking, and if employees are allowed to park on site, it would help deter people from parking and help create a pathway for vehicles to move in and out of the property. Hence why he doesn't think the restriction of employee parking is a good idea and it would hinder employee performance.

**Chair Ellsworth** asked if there were any more questions for the applicant and there were none. She asked if the applicant had any more information they wanted to present. **Commissioner Corning** had one more question to ask and what were the paragraphs that the applicant wanted to go through later in the evening. She wanted to make sure she marked them all down. The first item of the list was Condition D1b: The Woodland parking lane with the request to remove this language of enclose the width variable of right-of-way (ROW) dedication and deciding if they need to stripe or not. **Commissioner Berlin** asked if there was a traffic light there and **Applicant Hunt** stated that there is one at Hwy 219 & Woodland Ave, but not a traffic light at Woodland & Hillyer Lane. **Applicant Hunt** gave a description on how traffic would enter and exit out of the property. **Commissioner Corning** commented on getting back to the listing of items for discussion. **Applicant Hunt** said D1b(2), which was to remove the ROW dedication sentence. The next one was D9 which was about the wheel stops and requesting a modification to say bollards were acceptable. The other one is D4 which was the bus stop fee, and they request clarification and the modification to be only requiring the applicant to pay the \$2,500 basic bus stop fee, rather than the enhanced bus stop fee. V11 is the restriction of hours and employee parking, modification would be removing that from conditions. TA-2A Employee hours and they are proposing to remove that condition or revise the hours. T-A2c is a restriction on employee parking which they are proposing to allow parking for employees. Lastly T-A4, which they want clarification on what is being asked of them. **Ms. Reynolds** requested to have the applicant to be allowed to add things to the record later in the evening, if they receive testimony tonight that has questions that need clarification from the applicant. **Chair Ellsworth** asked if there were any other questions for the applicant and there were none. She asked if there were any questions from the applicant and there were none.

**Testimony by Proponents:** **Chair Ellsworth** asked if there was anyone who wanted to testify in favor of this application. There were none and **Chair Ellsworth** asked if there was anyone online who wanted to testify in favor and there was none.

**Testimony by Opponents or Neutrals:** **Chair Ellsworth** asked if there was anyone who wanted to testify in opposition or in neutral. There were none and **Chair Ellsworth** asked if there was anyone online who wanted to testify in either opposition or neutral. There was a question that was posted in the chat by **Ms. Jessica Bravo** and **Senior Planner Cortes** to read the question, which was "Will there be designated parking areas for third-party pickups? For example, Grubhub or DoorDash." After the question was read, there were no more testimonies and **Chair Ellsworth** moved onto rebuttal by the applicant, granting the applicant to answer the question among others. (Ms. Bravo never spoke or provided her mailing address, precluding her establishing legal standing.)

**Rebuttal by the Applicant:** **Mr. Schwartz** stated that they do their best to designate where third party pick-up or curbside pick-up should occur in the parking lot.

Before she closed the record, **Chair Ellsworth** asked if the **Planning Commission** had any questions for the applicant or for **Staff**. **Chair Ellsworth** asked both **Senior Planner Cortes** and **Director Kerr** to address any comments they might have to the **Planning Commission** before she closed the record. **Senior Planner Cortes** stated yes and started off with the enhanced bus stop improvement and this was condition D4. He mentioned the Transit Development Plan and provided slides of where the bus stop will be located near the site's area. He stated that the **City** updated its transit plan [in June] and they had a few important figures that they included, such as the preferred service bus stop change, as in what the **City** wants the transit plan to look like and incorporate the new development in Woodburn. **Senior Planner Cortes** showed a map to indicate the existing bus stops and the locations of new ones [plan Fig. 63]. **Senior Planner Cortes** explained that an enhanced bus stop is more than just a concrete pad and a sign on the ground with an included shelter, but to ensure more additional shelters throughout the **City**, as the **City** is

only budgeted [per Fig. 68] to provide five enhanced shelters throughout the entire transit plan. **Senior Planner Cortes** explained that the **Staff** had many conversations with the applicant on how to go about this condition, and they believe having a fee in lieu of a bus shelter is a fair proposal for the development. It wouldn't be a benefit only to Woodburn, but also to employees and residents in West Woodburn. **Senior Planner Cortes** stated that the city has applied this condition to six other developments through a bus stop improvement fee. He provided a list of reasons to why this condition is necessary, and that **Staff** believes an enhanced bus stop is warranted. **Staff** believes this development should contribute to a cost toward the shelter for one of the **City** bus stops.

**Senior Planner Cortes** moved on to discuss the other items for comment. He talked about D1b about the parking lane and that his initial thought was to have the applicant be willing to have within D1b last paragraph striking the phrase, "this includes variable with right-of-way dedication..." and striking the whole sentence, ending with "sidewalk." **Director Kerr** said he'd support that. **Commissioner Corning** asked **Senior Planner Cortes** to hold on a moment while she was writing notes. Afterwards, **Senior Planner Cortes** moved onto D9, indicating that **Staff** would be happy to revise the condition in some way that would acknowledge the proposal for bollards and allow it to meet the WDO requirement. **Senior Planner Cortes** talked about the traffic management condition, starting with T-A2 part (a). He stated that **Staff** wasn't wedded to the specific hours, as their intent was to make sure that there wasn't conflict with morning and afternoon rush hours. Therefore, **Staff** would be happy to see these two feasible alternatives; one of them being not having any limits of hours of operation or to simply change the hours to be in the range that the applicant requested. Those hours would be 6:30 a.m. – 10 p.m. any day of the week that the store is open. **Senior Planner Cortes** moved on to T-A2 part (c) of this condition, which **Staff** had the same line of thinking when thinking of way to provide for opening period traffic management. If the **Planning Commission** finds what the applicant is proposing to be worthy, **Staff** would be okay with striking any restrictions on employees parking on-site during the opening period or anytime of that matter. **Commissioner Corning** asked to essentially delete part (c) and **Senior Planner Cortes** affirmed. **Senior Planner Cortes** then talked about T-A4, which the applicant is proposing the changes for T-A2 parts (a) & (c), he doesn't think T-A4 needs any change. Lastly, **Senior Planner Cortes** brought up V11, which he believes that its not strictly necessary for the development to have this condition. Therefore, **Staff** would be open if the **Planning Commission** wanted to strike it altogether or to change it. **Senior Planner Cortes** stated that he's available for more questions if anyone has them.

**Chair Ellsworth** asked what the thought process behind V11 and **Senior Planner Cortes** responded that the key reason for this variance condition was to obtain the number of employees for a typical shift. The information that would be provided from this parking variance would be useful in **Staff's** research in the future for future fast food restaurant parking. **Director Kerr** stated that they write similar conditions when they get parking variance requests related to multi-family developments [apartments], where developers have reporting requirements. This is to help **Staff** to plan out better parking requirements. **Director Kerr** commented to **Senior Planner Cortes** that the applicant wanted some clarity about this traffic management plan and its duration, which is condition T-A2d. **Director Kerr** explained that the applicant is aware of the potential opening issues of the business when it comes online, and the applicant has presented a lot of data and good information. He trusts that they have good data and management practices that they'll put in place. He stated that he won't be the only one reviewing the plan, but also the **Public Works Director** and the **Police Department** will be reviewing it as well. **Staff** are confident that all the ideas and plans that the applicant presented are going to be a satisfactory conclusion. **Director Kerr** mentioned specific text within Condition T-A4 that if everything is fine after 3 days, he could waive the remaining traffic management conditions. **Planning Commission** and **Staff** discussed more about T-A2d. **Senior Planner Cortes** summarized the discussion of a potential new condition, as stating to change any reference to a minimum of first days of opening to not have a reference to a minimum, instead to say the first days of opening. **Commissioner Bartel** said it should be written with one number instead of various numbers. **Senior Planner Cortes** summarized the new condition by saying that there are some things required during the opening period, with most of those required during the first few days and that will be a few more required to linger on for a few days. **Commissioner Corning** believed that **Commissioner Bartel** was referencing paragraph T-A1, which references the 12-day requirements. **Commissioner Bartel** explained that part (d) was explaining a different number and that was confusing to her. **Senior Planner Cortes** clarified that what that condition is trying to say is that during the first 19 days that the restaurant is open, part (d) will apply.

**Director Kerr** suggested to help clarify things, they can simply state that all the elements of the traffic management plan would last up to 12 days after opening. He stated that they can make those modifications after the Commission approves.

**Chair Ellsworth** had a question for **Assistant City Attorney Granum** and that was about the applicant making a comment on depending how everything went tonight, they might want to make a request to leave the record open, and would they need to make that request before she closed the hearing. **Assistant City Attorney Granum** answered with a yes. **Chair Ellsworth** asked if the applicant wishes to have the record open. **Mr. Schwartz** asked **Assistant City Attorney Granum** that they as the applicant need to protect that right in case they need to come back to the public hearing if they have more information. **Assistant City Attorney Granum** states that generally when an attorney requests an opportunity to keep a record open. She would need an affirmative on whether the applicant wants to or not, otherwise she recommended having the **Planning Commission** to close the hearing and deliberate and decide. **Assistant City Attorney Granum** stated that if you wanted to keep the hearing open, it would be for the applicant to provide additional evidence, which generally happens at the next meeting and would be in 3 weeks [on August 10, 2023]. **Mr. Schwartz** stated that they feel like they've addressed all the comments and questions and he stated that he does not wish to leave the record open. **Assistant City Attorney Granum** confirmed that it does not waive any opportunity for an appeal.

**Chair Ellsworth** closed the public hearing and moved onto the deliberation. **Commissioner Bartel** had several questions and comments, stating with the parking on Woodland Ave and stating that she doesn't think it's a good idea. The reason why is because it's going to be the major area of in-and-out traffic, especially during the grand opening phase. **Commissioner Bartel** pointed out that there's plenty of parking on site and along Hillyer Lane that the developer planned. Therefore, **Commissioner Bartel** is not in favor of striping on Woodland Ave. **Chair Ellsworth** is also in agreement with her and encourages the city planners to in turn encourage the **City Public Works** to not force the issue of striping that area and to allow the fee-in-lieu. **Commissioner Berlin** asked would they need to ask **ODOT** for permission to not stripe. **Director Kerr** stated that **ODOT** would be the one to issue the permits and that the **City** works closely with **ODOT**; and that **ODOT** also recommended not to stripe Woodland Ave due to safety concerns. **Commissioner Corning** asked that do they remove the D1b(1) sentence, "provide a parking lane minimum extent 110 feet ... ." **Commissioner Bartel** stated that they shouldn't provide parking lanes along Woodland at all, as that's asking for trouble. **Chair Ellsworth** asked **Staff** if they could strike part b(1) and have something along the lines of providing a fee in-lieu. **Senior Planner Cortes** summarized what the **Planning Commission** was asking and what they were asking was to have the applicant pay a fee in-lieu instead of requiring them to stripe the parking lane on Woodland Ave. The **Planning Commission** confirmed with a yes. **Senior Planner Cortes** stated that once they get to a motion, all they would need to do is direct **Staff** simply to revise the condition to require only a fee-in-lieu and not construction of a parking lane. **Chair Ellsworth** asked if anyone in the Planning Commission had any other comments or questions about the striping, and there were none.

**Chair Ellsworth** moved onto D9, which was about bollards. **Chair Ellsworth** asked the **Planning Commission** if anyone is opposed to adding bollards as an appropriate wheel stop and there were none. **Commissioner Corning** asked **Staff** on how they would phrase it and **Senior Planner Cortes** stated that it would be phrased as that bollards meet the requirement and are allowed. **Director Kerr** read the original condition with the newly added bollards addition for context. **Chair Ellsworth** moved on to D4 which was about the enhanced bus stop. **Commissioner Bartel** stated that she's in favor of an enhanced bus stop because she believes that not everyone drives and even though they have a fledging transportation system in that part of that town, the hope is as more and more things are opening over there, then maybe we can strengthen that a bit. She also commented the most likely the workers will require the bus, as they would need a way to get home, to school or to work. **Commissioner Bartel** commented on the Oregon weather being a factor to why an enhanced bus stop is necessary to protect both workers and patrons of the restaurant. **Commissioner Bartel** stated that an enhanced bus stop makes sense and the **Planning Commission** agreed with her. **Chair Ellsworth** asked if the **Planning Commission** had anything more to discuss about D9, which there was none. Therefore, **Chair Ellsworth** declared that D4 will stand as it is written.

**Chair Ellsworth** moved onto T-A2 parts (a) & (c), which were about traffic management, and need to discuss the entire traffic management for the project. **Commissioner Bartel** agreed and she commented about the hours of operation. She commented that the **Planning Commission** discussed with going what the applicant recommended of the 6:30 a.m. – 10 p.m. during the initial couple of weeks for opening, rather than trying to come up with different hours especially since they aren't open on Sundays. **Commissioner Bartel** commented on what **Senior Planner Cortes** said about the days they operate and like that phrase. **Commissioner Corning** the suggestion of eliminating the phrase, "time and dates restrictions." **Chair Ellsworth** stated that they will look at it in sections, starting with the first part of that condition by removing the words "during minimum" and have "during the first 12 days" in paragraph T-A2. **Chair Ellsworth** commented on T-A1 and to her, it makes sense to leave the word "minimum" in there. The reason why is because if the applicant wants to give us a 30-day plan, that would be fine, and it would be apart from the first 12-days. Therefore the "minimum" does makes sense if the applicant wanted to be more. **Chair Ellsworth** why 12 days and not 14 days, and **Staff** reminded her that Chick-fil-A doesn't open on Sundays. **Chair Ellsworth** stated that the word "minimum" is fine in T-A1 as it grants two weeks of traffic data and if the applicant wanted to provide more information. **Chair Ellsworth** stated that T-A2 will remove the word "minimum" from the first sentence that stated, "the first 12-days that their open."

**Chair Ellsworth** talked about the set hours of operation the **City** put on the business and understands why they did it, specifically in order to remove the breakfast and dinner rushes, but it is a restaurant. She admitted that she doesn't see why they would put hours of operation limitations on a restaurant. **Vice-Chair Hernandez-Mejia** commented that she thought the same thing. **Vice-Chair Hernandez-Mejia** commented that more than anything, the applicant should worry about making sure that they have the traffic control set and the signage to make that work. She doesn't think that the applicant is giving up on anything by stating that they are going to give up their third-party orders, as they seem to not be receiving as many orders through their app. **Vice-Chair Hernandez-Mejia** commented that she aplicated the numbers the applicant provided and that the drive-thru is longer than other branches and it should manage the traffic well for those 12 days. She doesn't think they need to restrict those hours of operation. **Chair Ellsworth** moved on to the second part of that condition, which referred to the monument or pole sign. She hopes to keep the monument-sign condition and remove the temporary hours of operation condition and asked **Staff** if the monument sign appear in anywhere else in the plan, and does it need to be called out. **Senior Planner Cortes** stated that the condition basically says whatever sign they'll have, if it has electronic message center, for it to just display the hours of operation. Therefore, the easiest thing to do is strike the word "temporary," so the result would be that the applicant would use the sign to indicate hours of operation. **Chair Ellsworth** clarified on those 12 days and **Senior Planner Cortes** stated yes, and afterward those 12 days, the applicant is free to use the sign in any way they see fit, just if they show the times of operation during those 12 days. **Chair Ellsworth** asked if the Planning Commission had an issue with that condition and there were none.

**Chair Ellsworth** moved onto part (b) and **Commissioner Bartel** had a concern that they are trying to restrict when the business can receive deliveries to after hours, when staffing could be an issue for that function. She knows that they won't take deliveries during the breakfast, lunch, or dinner rushes, but she doesn't know when they typically take deliveries and supplies. **Commissioner Bartel** also pointed out that they didn't really hear the applicant's plan for that. **Vice-Chair Hernandez-Mejia** commented that they also didn't hear any opposition from the applicant and assumed that the applicant would take deliveries either before they open or shortly after they close, as they would have staff to work with and there isn't a problem in that context. She pointed out the issue of the trucks moving in and out of the property and it could be an issue for customers trying to get food. **Commissioner Berlin** asked the question if the applicant had a separate base for deliveries. **Mr. Schwartz** answered by explaining the several types of deliveries; the larger vehicles will be delivering off hours to avoid customer vehicles, while the smaller vans make their deliveries in the early morning. **Mr. Schwartz** stated that it could be theoretically during business hours per day, but not usually at lunchtime. **Commissioner Berlin** stated that her question was about if there were special places to drop the delivery and **Mr. Schwartz** stated that the delivery of the product comes through the backdoor, but they don't have a loading zone. They have a pallet with the products, and they wheel it into the store's backdoor. **Commissioner Bartel** stated that she has no objections if the applicant doesn't. **Chair Ellsworth** asked the **Planning Commission** if they were striking it or leaving it, and everyone agreed

to leave it. Therefore, **Chair Ellsworth** stated that for two weeks, the applicant must minimize traffic impact by having the deliveries during off hours.

**Chair Ellsworth** moved onto part (c), which is about employees parking off-site. The entire **Planning Commission** agreed to strike out Condition T-A2c, as there is no restaurant dining-in, and the employees will be the ones using the parking spaces. **Chair Ellsworth** moved on to condition part (d), commenting in favor of it. **Commissioner Corning** commented on they were planning to change something in the third line from “13 to 19 days” to “thought the first 12 days,” and about having the applicant work with **ODOT**, the **Police Department**, and **Public Works Department** to mitigate any problems that arise. **Chair Ellsworth** asked the **Planning Commission** if they had any concerns for condition e and there were none. **Chair Ellsworth** asked the **Planning Commission** if there were any questions about the section they just went thought and there were none. **Chair Ellsworth** moved onto T-A3 and wanted to change it to the “first 12 days” and everyone agreed. **Chair Ellsworth** also mentioned that while the applicant mentioned not allowing third-party delivery services, but she likes letting them have third party delivery services for that first week and designated specific spots for them upfront, so they can come in, get what they need and leave. **Chair Ellsworth** stated that makes more sense to her, rather than restricting commerce and the rest of the **Planning Commission** agreed. She talked about the signage and liked how they requested for appropriate signage to help guide people and she liked the fact that the applicant told them that they have people on staff to help get people through the lines. **Chair Ellsworth** asked the applicant a question about the staff being well-trained in safety and are there safety conditions in place to avoid them getting hit by vehicles and if there was a concern about the employees’ safety. **Mr. Schwartz** stated yes that they are trained and yes, they have a lot of concern about that potential situation. The **Planning Commission** concluded that they were good on this condition.

**Chair Ellsworth** moved onto T-A4 as there was some discussion on it. **Commissioner Corning** commented on leaving it as it is, and **Commissioner Bartel** commented on the concern from the applicant, who stated that condition was too open-ended than what it was intended to be, as it was meant to be governing the first 12-days. **Commissioner Bartel** added that as long it clearly says that, and it’s not going to be revoked years later. **Vice-Chair Hernandez-Mejia** commented that the parts concerning T-A4 have already been addressed and the **Planning Commission** agreed. Before they moved on, **Chair Ellsworth** wanted to make sure that if there is a problem or a problem arises, that there is enough in parts (d) & (e) above, and the **City** can take some kind of action to revise the traffic plan. **Chair Ellsworth** advised the rest of the **Planning Commission** to read the conditions of e and d. **Vice-Chair Hernandez-Mejia** commented about the sentence below part (e) that, “any **ODOT** or **City Police** may administer this condition as they see fit,” would be the area that covers **Chair Ellsworth’s** concern. **Chair Ellsworth** read the entire condition and commented that since they do have something they can implement; if something does happen and that they would need to mitigate that, she’s willing to take out T-A4 and asked the rest of the **Planning Commission** what their thoughts were. The **Planning Commission** agreed with her. The **Planning Commission** moved on to the final condition of V11. **Commissioner Bartel** requested the condition could be a request rather than a requirement. She said that the data could be interesting and valuable and can be used for the **City**. **Commissioner Bartel** also added that she doesn’t want to restrict the information that’s being gathered too tightly, as maybe they don’t track things a certain way. **Chair Ellsworth** agreed with her on being interesting to know, however, she much rather finds a way to encourage the **City’s Planning Department** to have a strong working relationship with Chick-fil-A; maybe be allowed to come back and sit down with them to discuss new information discovered about traffic. **Chair Ellsworth** encouraged the applicant to do that, as the **City** does learn a lot and improve when they get feedback from applicants and their projects. **Chair Ellsworth** stated that it would help with future projects in the **City**, but she won’t want to make it a condition of approval for your application. The **Planning Commission** agreed with her statement. **Chair Ellsworth** asked the **Planning Commission** if they had any questions, concerns, or comments they wanted to address. **Commissioner Bravo** asked if they are striking V11 and **Chair Ellsworth** said yes, they are striking V11.

**Chair Ellsworth** entertained a motion. **Commissioner Corning** moved for the **Planning Commission** to approve **DR 22-26 & VAR 22-15: Chick-fil-A located at 300 S. Woodland Ave**, subject to the conditions outlined in the staff report, with the following changes: –

- D1b(2): Require parking lane fee in-lieu only;

- D9: Allow bollards;
- T-A2:
  - In first sentence to delete the word "minimum" so the sentence will read "during the first 12 days,"
  - In part (a), strike the sentence limiting hours of operation,
  - In the part (a) second sentence, strike "temporary" before hours of operation.
  - Strike part (c).
  - In part (d), strike "at least days 13 and 19" and replace that with "the first 12 days" so it reads "continuing through the first 12 days";
- T-A3: Strike "min" and revise 19 days to 12 days;
- TA-4: Strike; and
- V11: Strike – and prepare a final land-use decision for signature of the **Chair**.

**Commissioner Bartel** seconded. **Chair Ellsworth** had a motion and seconded and requested **Director Kerr** to conduct a roll-call vote. The final vote was all seven **Commissioners** in-favor and the motion passed. **DR 22-26 & VAR 22-15: Chick-fil-A located at 300 S. Woodland Ave** was approved.

**Business from the Commission: Chair Ellsworth** asked if there was business from the **Commission** and there was none.

***Chair Ellsworth** issued a 3-minute break for the **Planning Commission**, before they move onto Updates from **Staff**. **The Planning Commission** was back in session around 9:35-ish pm.*

LA 21-03

**Updates from Staff Part I: Commissioner Corning** wanted to address the **LA 21-03 Tree preservation and removal** and stated that a lot of the changes that were made aren't reflected in the draft they currently had. She wants to get the draft in a format they can read such as no red lining and replacing it with a color that's easy to read. **Senior Planner Cortes** stated that what she is requested is one format for edits and another for how it would look like a final document. **Commissioner Corning** stated yes. **Commissioner Corning** commented on the one line she disagreed with the most is the line stating, "removal of any significant tree permissible for any reason," which is item T1. She also pointed out that T1 is suggesting that an applicant doesn't need an arborist. **Commissioner Corning** requested to see the draft prior to the day they vote, therefore suggesting **Staff** mail out a draft more ahead of time prior to the meeting. **Senior Planner Cortes** summarized that there was a lot of discussion, and this is the **Staff's** generally best attempt to go by the notes we had in our memories and what kind of most of the **Commission** agreed too. While more changes can be made, that's what resulted in this. **Senior Planner Cortes** clarified that the section that **Commissioner Corning** referenced, stating that in this proposal, that would apply to people with existing homes and want to remove a tree. He added that in other situations, for people who are building new developments, someone who owns a duplex or a strip mall, office park, etc., would still have to get permission and get reasons for the removal.

**Commissioner Corning** commented that the condition does say "removal with any significant tree is permissible for any reason" and stated that they didn't want that sentence. **Senior Planner Cortes** stated that **Staff** understands that and added that the point of this is to spark any last discussion by the **Commission** and at some point, most of the **Commission** will have to vote on something. **Commissioner Corning** commented that they have been doing that, but the **Planning Commission** seems to keep going in circles, as there seems to be differentiating viewpoints about trees. **Director Kerr** asked if there's something other than Tier 1 that the **Commission** agreed on. **Commissioner Corning** commented that she didn't have enough time to look at it, due to the first staff report and doesn't think anyone did, due to the format being hard to read. Therefore, **Commissioner Corning** stated that they need more time to review the draft and asked if August 22, 2023, is set and stone. **Director Kerr** stated that it's not set, and **Commissioner Corning** requested to delay that meeting, so they have time to look at a clean draft before they vote on it. **Commissioner Berlin** agreed with her. **Director Kerr** stated that he's not disagreeing with her and that they can take more time on it if they have too, but only if the majority of the **Planning Commission** wants it to. **Director Kerr** stated again if there was something else that they wanted to bring up from the draft beside Tier 1.

**Commissioner Corning** mentioned “3.06.07 The Reason for Preservation of a Significant Tree,” and how paragraph (a), which was stricken out, was more of a better condition than what is currently written on the draft which was a list. She mentioned how she requested said list to be reordered in a reasonable matter. **Senior Planner Cortes** stated that he does remember that request about the reordered list and that he'll add that list in the next draft. **Commissioner Corning** explained why the list is important, in terms of reasonable tree removal and **Commissioner Berlin** stated that environmentally, preserving trees is better for the **City**. **Commissioner Corning** commented on the diameter's definition and why it's written as “breast height” instead of using a number. She said they could have a definition and a number. **Senior Planner Cortes** explained that the diameter is influenced by the tree's center. **Commissioner Bartel** commented stating the breast height is subjective and that everyone in the **Commission** is a different height, so someone can argue the diameter of a tree and measure off by someone closely resembles a tree's diameter. **Commissioner Corning** commented why it can't have a number like 4 or 5 feet for example, then **Director Kerr** asked wasn't there was something already indicating 4 ½ feet in the draft. **Senior Planner Cortes** said yes as that's the measuring point. **Commissioner Corning** stated one said 4 ½ feet and another said 5 feet.

**Commissioner Corning** stated again that it is hard to read when it's in red and that's the only packet they get. **Senior Planner Cortes** stated that **Staff** would be happy to give the **Planning Commission** both a red line and a clean copy version of the draft. **Commissioner Corning** asked the rest of the **Planning Commission** if they agree with her on seeing an easy-to-read form of the draft before they have a meeting to vote on it. The entire **Planning Commission** agreed with her and voted yes. **Commissioner Bartel** commented on getting both copies first electronically, as it's ironic that they are talking about trees and trying not to kill them, but here is everybody with paper copies of the draft. The **Planning Commission** laughed in agreement and then by getting PDFs of the red lined and clean version, it'll help them review it earlier and have edit made in time for the physical version. **Chair Ellsworth** commented that they did discuss that Tier 1 – “the removal of a significant tree for any reason” was strictly limited to an existing home and a tree that was on a property of an existing home, which is what the **Commission** said it wasn't simply because former Chair Piper waffled.

**Commissioner Corning** commented that former Chair Piper may have said that, but she said as a **Commission** they didn't agree on it. **Vice-Chair Hernandez-Mejia** commented on understanding both sides of the discussion and knowing where they as a **Commission** wanted to get to where it was easier and at least not so expensive with the arborist. **Vice-Chair Hernandez-Mejia** continued with how she understood it, it wasn't absolutely any reason, it was just providing something that at least a valid reason, an example like it's going into the sidewalk, instead of the reason of wanting to chop the tree down. She also mentioned that having a clear reason for removing a significant tree would help **Director Kerr** and his **Staff** accept these removal applications. **Commissioner Corning** read what was written, which was stating that “it's permissible for any reason, however, the maximum removal shall be 1 tree for a calendar year,” and that should be out altogether. **Commissioner Corning** said it needs to be reworded so that it can be removed with the rest of that word saying the person can give their own testimony as to why it should be removed. An arborist isn't necessarily required, and it can be a homeowner coming in with photos or having someone from **Public Works** verify that the tree can be removed. **Senior Planner Cortes** summarized what they were saying is that there “has to be a reason,” but it can't just be “a reason;” it doesn't have to be from a specific list or category. The **Planning Commission** started to argue for a bit, but **Commissioner Bartel** brought back the peace by stating a list is necessary, as some of the **Commissioners** were going back and forth on either saying “to removing a tree for any reason” to “a valid reason.” **Chair Ellsworth** agreed with her as **Staff** needs a list of criteria, to review tree removal permits. **Commissioner Corning** gave examples of endangered property or life as being a few reasons to remove the tree.

**Senior Planner Cortes** suggested an idea where they could make Tier 1 be same as the others because all the other tiers would continue to require having arborist reports, the basic reasons for the removal, etc. **Vice-Chair Hernandez-Mejia** commented that she was set on having the Tier 1 to be able to eliminate the need of an arborist because of the added expense and that was her biggest reason for keeping Tier 1. **Commissioner Bartel** agreed with her. **Senior Planner Cortes** gave an example of Tier 2, that there's an option that Tier 1 and Tier 2 would require the same reasons that are found on page 219 under Tier 2, such as dead, terminally diseased or dying, danger or hazard of collapse, eruption waterlines, etc. That the

**Planning Commission** could require the homeowners also choose one of the same lists of reasons as much as a homeowner of a duplex or strip mall. **Commissioner Corning** commented on liking that idea. **Commissioner Bartel** commented that **Staff** should include an “Other, please explain” option as her reason is because a list can only cover so much different reason to remove a tree, but other scenarios can happen that the **Planning Commission** didn’t think of at the time of the list’s creation. **Commissioner Bartel** also asked would they need to update the list every time a new scenario appears that’s not on the list. **Vice-Chair Hernandez-Mejia** understood the reason for not trying to have Tier 1 be written open-ended was because **Staff** was struggling to make a final decision of acceptable tree removal. **Vice-Chair Hernandez-Mejia** stated that her question at this point would be directed at **Director Kerr** and his **Staff** and her asking them if there has been any other random kind of examples that would fall outside of those reasons that are already provided on draft WDO page 219, that wanted to make sure that the **Planning Commission** covered. **Senior Planner Cortes** commented on recalling **Director Kerr** explaining his experience with looking at tree permits enough to the point that he could paraphrase as “it runs a gamut of reasons” and **Senior Planner Cortes** list of all the reasons **Director Kerr** heard in his career.

**Commissioner Corning** thinks that **Staff** should go with the list that they have currently, as she sees the list as reasons for significant tree removal. **Senior Planner Cortes** commented that the proposal would be the same reasons outlined in Tier 2 would be the same for Tier 1 homeowners. The only difference left for Tier 1 could be not requiring an arborist report and the **Commission** agreed. **Commissioner Corning** said if tree sap isn’t listed as a reason for removal and **Senior Planner Cortes** stated that sap is not listed in the list for Tier 1 or 2. **Vice-Chair Hernandez-Mejia** commented on understanding if there is a reason of falling fruit or enough of something falling in the pathway of an elder, that could slip and fall as a result. **Vice-Chair Hernandez-Mejia** stated that would be a reason to accept. **Commissioner Corning** commented that there was something similar written on the list and instead should be saying “posing any hazard to a person.” She mentioned that **Director Kerr** had someone come in and had that situation. **Director Kerr** added by saying that reason comes up a lot, as the person who comes in with that reason is usually elderly. They have fruit or branches falling off the tree and it’s dangerous for them to walk around. **Director Kerr** commented that it’s a hard position to be in, as he or **Staff** would have to tell the person no, they can’t remove it because it’s none of the current reason to be removed, like the tree is extremely healthy or not dying. **Director Kerr** stated that it comes down to the **Planning Commission** and what they decide, but they would need to itemize every possible scenario, to avoid discourse of **Staff** not allowing or why did **Staff** allow a tree to be removed.

**Senior Planner Cortes** added that it’s a pleasure to be able to advise the council and say here’s the policy that we think should apply for years on end for trees. Whatever happens would be a vast improvement over the status quo and the **Staff** and the **Commission** are very close to the finish line of this amendment and what he’s currently hearing will get them there.

**Commissioner Corning** commented at the time that they were thinking of having **Public Works** have someone go out there and verify that the tree could or could not be removed. **Senior Planner Cortes** stated while he remembers some discussion about that, he isn’t sure when or where the **Commission** were in all agreement on that idea. **Chair Ellsworth** commented that she thinks **Public Works** came in and informed them that they no longer have the person on **staff** anymore. **Assistant City Attorney Granum** stated that they do have somebody on **Public Works Staff** that does inspections, but mostly for street trees. She thought there was a question of whether they would have the capacity to serve as an additional inspector role on private property. **Assistant City Attorney Granum** stated that she’s not sure, but it probably depends on the situation, as she mentioned the large ice storm where they created special rules and restrictions, leading to going around and inspecting trees. **Assistant City Attorney Granum** mentioned that the person who was doing that has a primary duty as well. Therefore, while the City has somebody, still, it remains a staff capacity issue.

**Commissioner Corning** asked if they could delay the vote and get another copy of the draft. **Senior Planner Cortes** stated that is an option and the other option is if the **Commission** feels at ease enough, **Staff** can attempt to write down what staff heard tonight and present that through the August 10 meeting draft. He added that the **Commission** doesn’t have to vote on it on that date, but we can at least prepare it for that agenda, instead of trying to do a special communication between this meeting and the next.

**Commissioner Corning** commented that if they do not lock in to voting on it the next time, they see it and **Senior Planner Cortes** stated that they can choose to continue the hearing to a different date.

**Chair Ellsworth** commented on **Staff** doing a good job of giving us materials to work and agreed with **Commissioner Bartel** on receiving materials as Adobe PDFs a week before physical packets are mailed out to review the draft. **Assistant City Attorney Granum** addressed to **Chair Ellsworth** about **Commissioner Corning's** question about sharing information back and forth amongst the **Commission**, **Assistant City Attorney Granum** wanted to cover the public meeting rules. She stated that it was just an advisory piece as generally when **Staff** do send materials out electronically, they are always welcome to send feedback and information back to **Staff**. When they do begin to share information among themselves electronically, that could still be considered a public meeting in an electronic forum. The **Commission** and committees, regardless of who you are, **Staff** advises that they don't meet in a quorum to discuss matters of public business. **Assistant City Attorney Granum** cautioned them against sharing electronically because that could be still consider a public forum and creating a public meeting. The **Commission** can always communicate with **Staff**, send revisions and proposals back to **Staff**, and they can try to share that with the **Commission**. The best place to have a major discussion is here in these official public meetings. **Chair Ellsworth** clarified by asking that emailing **Staff** is alright, but not **Commissioners** emailing other **Commissioners**. **Assistant City Attorney Granum** said correct to the question. **Commissioner Corning** asked about ex-prate and **Assistant City Attorney Granum** stated that is included with **Commissioners** not allowed to communicate with other **Commissioners** because that could lead into a quorum among other things. **Chair Ellsworth** mentioned serial communication, as that could easily lead to discussion among the other **Commissioners** and that is also not allowed. **Assistant City Attorney Granum** commented that she knows that's not the **Commissions** intention to have an unlawful meeting, but she just wanted to bring up those polices, as a cautionary reminder to them.

**Director Kerr** stated that **Senior Planner Cortes** will work on what the **Planning Commission** has given **Staff** for revisions and additional information from **Commissioner Corning**. **Director Kerr** reminded them they can always continue the hearing and move it to a later date until they are confident in a draft to vote on. He hopes the next meeting is short so they have time to discuss the draft and that **Staff** will provide them both a clean and strike out copy of the draft, along with an emailed PDF draft. **Senior Planner Cortes** reminded everyone that the PDFs of the packets are available online (through the **City** calendar).

**Updates from Staff Part II:** **Director Kerr** talked about the July 11, 2023, **City Council** meeting that was the same as the Music at the Park festival. The **City Council** awarded some certificates of appreciation to the **Planning Commissioners**. **Director Kerr** had those certificates with him tonight to give to the commissioners who weren't at the festival. He noted that former **Chair Piper** was awarded with a plaque and a key to the city for his years of service.

**Director Kerr** mentioned that the **Planning Commission** will have two meetings in August 2023 and there will be quasi-judicial agenda items. As for the tree code [LA 21-03], **Director Kerr** stated that they don't have to make a final decision next month, but they will probably see members of the public coming in and giving testimony about the proposed tree code [because staff gave public notice of a hearing date]. **Chair Ellsworth** stated that it's a great idea, as it would give the **Planning Commission** an idea of where they can go from there to make changes and think about the feedback from the public.

**Adjournment:** **Chair Ellsworth** entertained a motion to adjourn. **Commissioner Corning** moved that the **Planning Commission** adjourn, and **Vice-Chair Hernandez-Mejia** seconded. **Chair Ellsworth** asked for all those in favor and the vote was unanimous and the **Planning Commission** meeting was adjourned at 10:00pm.

Approved \_\_\_\_\_

Lisa Ellsworth  
Chair of Planning Commission  
City of Woodburn, Oregon

\_\_\_\_\_

Date

Attest \_\_\_\_\_

Chris Kerr, AICP  
Community Development Director  
City of Woodburn, Oregon

\_\_\_\_\_

Date